IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :25336 & 25340 of 2006

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Dated: 6th December 2006.

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WRIT PETITION NO :25336 of 2006

Between:
M/s. Sunder Steels Limited, Pathergatti, Hyderabad.

..... PETITIONER

AND

Additional Commissioner (CT) Legal, O/o Comissioner of Commercial Taxes, Hyderabad and others.

.....RESPONDENTS

WRIT PETITION NO :25340 of 2006

Between:
M/s. Sunder Steels Limited, Pathergatti, Hyderabad.

..... PETITIONER

AND

Additional Commissioner (CT) Legal, O/o Comissioner of Commercial Taxes, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.NOs.23336 & 25340 OF 2006

ORAL COMMON ORDER:
(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner is the same in both the two writ petitions; a limited company carrying on business of manufacturing iron and steel ingots, CTD Bars, etcetera, registered as a dealer under the A.P.G.S.T. Act with the 2nd respondent. With reference to the assessment year 1994-95 and 1995-96, the petitioner's liability for tax under the A.P.G.S.T. Act came to be determined by the 2nd respondent by his orders dated 24-03-1998 and 31-03-1999. However, the Deputy Commissioner concerned i.e., the 3rd respondent in this writ petition, chose to revise the assessment orders in exercise of Section 20 Sub-section (2) of the A.P.G.S.T. Act and came to the conclusion that the petitioner is liable to pay a higher amount of tax than was determined by the

assessing authority in respect of both the abovementioned assessment orders. Aggrieved by the same, the petitioner carried the matters in appeal before the Sales Tax Appellate Tribunal and the same are said to be pending. The petitioner also made applications before the 1st respondent seeking stay of recovery of the disputed tax during the pendency of the abovementioned appeals and the same were rejected by a common order dated 21-11-2006. Hence, the present writ petition with the prayers as follow respectively:

> "For the reasons stated above it is prayed that the Hon'ble court may be pleased to issue a Writ or order, direction more particularly one in the nature of Writ of Mandamus to declare the order of the 1st Respondent in rejecting the stay petition No.L.III(2)/926/06-1 dt.21.11.2006 as illegal, arbitrary, contrary to law, and consequently grant stay of collection of disputed sales tax of Rs.7,76,568/- pursuant to the revision order passed by the Deputy Commissioner (CT) Charminar Division, Hyderabad., for the assessment year 1994-95 under the APGST Act for which the appeal is pending before the Sales Tax Appellate Tribunal at Hyderabad., and interdict the 3rd Respondent in issuing notice of attachment of the property under Form No.5 in RR No.92, RC No.A3/115/05 dt.31-10-2006 under the Revenue Recovery Act as illegal and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case."

> "For the reasons stated above it is prayed that the Hon'ble court may be

pleased to issue a Writ or order, direction more particularly one in the nature of Writ of Mandamus to declare the order of the 1st Respondent in rejecting the stay petition No.L.III(2)/926/06-2 dt.21.11.2006 as illegal, arbitrary, contrary to law, and consequently grant stay of collection of disputed sales tax of Rs.20,23,695/- pursuant to the revision order passed by the Deputy Commissioner (CT) Charminar Division, Hyderabad., for the assessment year 1995-96 under the APGST Act for which the appeal is pending before the Sales Tax Appellate Tribunal at Hyderabad., and interdict the 3rd Respondent in issuing notice of attachment of the property under Form No.5 in RR No.92, RC No.A3/115/05 dt.31-10-2006 under the Revenue Recovery Act as illegal and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case."

Heard the learned Government Pleader for Commercial Tax.

In the circumstances, we are of the opinion that the matters can be disposed of at this stage directing the 1st respondent not to take any coercive steps for recovery of the disputed tax with reference to the abovementioned assessment years on condition of the petitioner depositing 50% of the disputed tax, for each of the assessment years, within a period of six weeks from today.

The amount, if any, already paid by the petitioner towards the disputed tax shall be given credit to while

computing the abovementioned amount of 50%.

Accordingly, with the above directions, both the writ petitions are disposed of at the stage of admission.

J.Chelameswar, J

D.Appa Rao, J

Note:
Issue copy by tomorrow.
(bo)
mrk
6th December 2006